



INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P62051PC00	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/NL2004/000093	International filing date (day/month/year) 10.02.2004	Priority date (day/month/year) 10.02.2003
International Patent Classification (IPC) or national classification and IPC C08B30/00		
Applicant CO\PERATIEVE VERKOOP- EN PRODUCTIEVERENIGING ...		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (Indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand 21.06.2004	Date of completion of this report 04.05.2005	
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Schütte, M Telephone No. +49 89 2399-7291 	

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/NL2004/000093

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-18 as originally filed

Claims, Numbers

1-27 as originally filed

Drawings, Sheets

1/2-2/2 as originally filed

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	--
	No: Claims	1-27
Inventive step (IS)	Yes: Claims	--
	No: Claims	1-27
Industrial applicability (IA)	Yes: Claims	1-27
	No: Claims	--

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

1 Reference is made to the following documents:

- D1: US-A-5 188 674 (KASICA JAMES J ET AL) 23 February 1993 (1993-02-23)
cited in the application
D2: US-A-5 547 513 (STONE JOEL A ET AL) 20 August 1996 (1996-08-20)

Item VIII:

2 Article 6 PCT:

- 2.1** The term "essentially" in claims 11 and 12 is vague and reason for lack of clarity.
- 2.2** Claims 20 - 24 are phrased as "product-by-process"-type claims. Products should be defined by their technical features and not by the process to manufacture them. Furthermore a product is not rendered novel merely because it was produced by a novel method.
- 2.3** Claim 23 does not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not defined. The claim attempts to define the subject-matter in terms of the result to be achieved. The subject-matter should be defined in more concrete terms, viz. in terms of how the effect is to be achieved.

Item V:

3 Article 33(2) PCT:

- 3.1** The broadest claim is claim 20 which discloses a starch product containing less than 50 wt% amylose (Please refer to item 2.2 as well.). Starch with said amylose content is known from documents D1 - D2. Starch generally has said amylose content. Claim 20 is not novel.
- 3.2** D1 describes a process for jet-cooking and spray-drying starch (cf. claims 1, 5, 7 and 8). The starch (< 40% amylose, still partly lower than 50 wt%) is heated as an aqueous slurry in the jet cooker at 93 - 177 °C to form a solution which is then spray dried.

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(SEPARATE SHEET)**

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D1 is novelty destroying for the subject-matter of claims 1, 2, 6 - 8, 11, 13 - 24.

- 3.3** D2 uses starch containing more than 30% amylose which is heated in water to produce a solution in a jet cooker (cf. col. 4, li. 2 and 3; col. 5, li. 66 - col. 6, li. 9). The solution is dried or precipitated and dried. The obtained starch can be crystalline or gel-like. Drying is effected by spray-drying (col. 6, li. 64 - col. 7, li. 6 and col. 8, li. 11 - 16 and li. 48 - 51).

D2 is novelty destroying for claims 20 - 27.

4 Article 33(3) PCT:

- 4.1** None of the claims is considered to be inventive.

5 Article 33(4) PCT:

- 5.1** The subject-matter of the claims is industrially applicable.